



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

July 12, 2016

U.S. Army Corps of Engineers  
Attn: Debbie Knaub  
Seattle District  
Regulatory Branch, CENWS-OD-RG  
PO Box 3755  
Seattle, WA 98124-3755

RE: Water Quality Certification Order No. **13420** for Corps Public Notice No. **NWS-2010-978 (RGP 4)** Lake Chelan, Chelan County, Washington

Dear Ms. Knaub:

On March 11, 2016, the U.S. Army Corps of Engineers Seattle District (Corps) requested a Section 401 Water Quality Certification from the Department of Ecology (Ecology) for the Corps Regional General Permit #4 (RGP #4). A joint public notice regarding the request was distributed by the Corps on March 8, 2016.

The purpose of the Regional General Permit is to authorize the maintenance, modification, construction, and retention of overwater structures in southern Lake Chelan for the purpose of water access and recreation. Overwater structures for this RGP are defined as piers, ramps, floats, watercraft lifts, and their associated structures. Associated structures include concrete footings, piling, ladders, handrails, steps, davits (suspended watercraft lifts), swim steps, watercraft grids or lifts, and lighting.

Regional General Permit 4 is applicable in southern Lake Chelan; "southern Lake Chelan" is defined as the portion of Lake Chelan downlake (south) of a line drawn between Limekiln Point (-120.2716; 48.0139) and Box Canyon Creek (-120.3324; 48.0145).

On behalf of the State of Washington, Ecology certifies that the work described in the March 11, 2016, Request for Water Quality Certification and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.



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If you have any questions, please contact Andrea Jedel at (509) 454-4260. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Gary Graff, PWS  
Regional Section Manager  
Central Regional Office  
Shorelands and Environmental Assistance Program

Enclosures

By certified mail: 7014 3490 0001 5527 9735

cc: Jeff Miller, Treated Wood Council  
Shane Early, DNR  
Hank Lewis, Chelan County  
Graham Simon, WDFW  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov) Ecology HQ  
Andrea Jedel, Ecology Central Regional Federal Permit Coordinator  
Debbie Knaub, USACE

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 13420</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2010-978</b>
<b>CERTIFICATION TO</b>	)	<b>(Regional General Permit 4)</b>
<b>U.S. Army Corps of Engineers</b>	)	Regional General Permit for maintenance,
<b>Seattle District</b>	)	modification, construction, and retention of
in accordance with 33 U.S.C. 1341	)	overwater structures and bank stabilization in
(FWPCA § 401), RCW 90.48.120, RCW	)	southern Lake Chelan, located in Chelan County,
90.48.260 and Chapter 173-201A WAC	)	Washington.
	)	

TO: U.S. Army Corps of Engineers  
 Attn: Debbie Knaub  
 Seattle District  
 Regulatory Branch, CENWS-OD-RG  
 PO Box 3755  
 Seattle, WA 98124-3755

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#### **AUTHORITIES:**

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);

2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

#### **WATER QUALITY CERTIFICATION CONDITIONS:**

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

#### **A. General Conditions:**

1. For purposes of this Order, the term "Applicant" shall mean prospective permittee(s), and its agents, assignees and contractors seeking authorization under RGP 4.
2. Work authorized by this Order is limited to the work described in Regional General Permit (RGP) 4 received by Ecology on July 7, 2016, unless otherwise authorized by Ecology.
3. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
4. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
5. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make

modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.

6. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

**B. Water Quality**

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200 (1)(e)(i).

**C. Construction Conditions**

1. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling and grading work and shall be maintained throughout construction.
2. All equipment must be clean and free of oils, hydraulic fluid, and other contaminants prior to entering all areas below the Ordinary High Water Mark (OHWM) of Lake Chelan.
3. Equipment used for in-water work during this project operating with hydraulic fluid shall use only those fluids certified as non-toxic to aquatic organisms.
4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.

**D. Timing Requirements**

1. Certification of this RGP will expire 5 years from the Corps issuance of the RGP.

**E. Emergency/Contingency Measures**

1. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state

waters, is prohibited. If these occur, the proponent or operator shall immediately take the following actions:

- a. Cease operations that are causing the compliance problem.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
  - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, the National Response Center at 1-800-424-8802 and within 24 hours of spills or other events Ecology's 401 Federal Permit Coordinator at (509) 454-4260.
  - f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
  4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.
  5. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

#### **YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

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To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

#### ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel RD SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

#### CONTACT INFORMATION

Please direct all questions about this Order to:

Andrea Jedel, PWS  
Department of Ecology  
Central Region Office  
1250 W Alder Street  
Union Gap, WA 98903

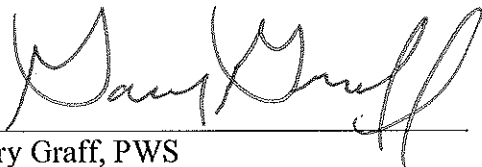
(509) 454-4260  
[andrea.jedel@ecy.wa.gov](mailto:andrea.jedel@ecy.wa.gov)

#### MORE INFORMATION

- **Pollution Control Hearings Board Website**  
[www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**  
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**  
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**  
<http://www.ecy.wa.gov/biblio/wac173201A.html>

**SIGNATURE**

DATED this 12th day of July, 2016, at Union Gap, Washington.



Gary Graff, PWS  
Regional Section Manager  
Shorelands and Environmental Assistance Program  
Central Regional Office – Ecology  
State of Washington